

IN RE: PETITION FOR ZONING VARIANCE
3/2 Vincent Avenue, 360' S of
Old Eastern Avenue
(9 Vincent Avenue)
15th Election District
5th Councilmanic District

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 89-346-A

Robert M. Gilroy
Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a variance to permit an accessory structure (garage) height of 25 feet in lieu of the 20-foot height granted in Case No. 88-458-A and to permit the accessory structure to be larger than the principal dwelling, in accordance with Petitioner's Exhibit 1.

The Petitioner appeared and testified. There were no Protestants.

Testimony indicated that the subject property, known as 9 Vincent Avenue, consists of 0.32 acres more or less zoned D.R. 5.5 and is improved with a single family dwelling and partly constructed garage. In March 1988 Petitioner filed a petition for zoning variance in Case No. 88-458-A for an accessory structure (garage) height of 20 feet in lieu of the maximum permitted height of 15 feet. Said variance was granted with restrictions. Petitioner testified that during construction of the subject building, he realized that additional height was necessary to meet his needs. To support his request, Petitioner introduced photographs of the subject garage and surrounding area. It was clear from the photographs the garage is excessively large and far exceeds the square footage of the existing dwelling.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and

his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical

difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented, there is insufficient evidence to allow a finding that the Petitioner would experience practical difficulty or unreasonable hardship if the requested height variance were denied. In the opinion of the Deputy Zoning Commissioner, to permit the additional height is excessive and would promote the use of the building for other than residential purposes. The testimony presented by Petitioner was in support of a matter of preference rather than of the necessity for the request. The Petitioner failed to show that compliance would unreasonably prevent the use of the property or be unnecessarily burdensome. Therefore, the requested height variance must be denied. While a garage of the dimensions and size depicted in Petitioner's Exhibit 1 would not generally be granted, Petitioner's request to allow the accessory structure to be larger than the principal dwelling will be granted due to the fact that the dimensions are no larger than that previously submitted in Case No. 88-458-A. Therefore, the vari-

ance to permit the accessory structure to be larger than the principal dwelling shall be granted with restrictions as more fully described below.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested as modified herein shall be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 13th day of March, 1989 that the Petition for Zoning Variance to permit an accessory structure (garage) height of 25 feet in lieu of the 20-foot height granted in Case No. 88-458-A, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Zoning Variance to permit the accessory structure to be larger than the principal dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

- 1) The Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- 2) The height of the accessory structure (garage) shall be no greater than 20 feet.
- 3) The garage shall be no larger than 32'1" by 40' as set forth in Petitioner's Exhibit 1.
- 4) Petitioner shall not allow or cause the accessory structure to be converted to a second dwelling unit and/or apartment. The garage shall contain no living or sleeping quarters, and no kitchen or bathroom facilities.
- 5) The accessory structure shall at no time be used for any commercial purposes.

6) The deeds existing on the property shall be reviewed upon completion of the subject garage, or within six (6) months of the date of this Order, whichever comes first.

7) Within sixty (60) days of the date of this Order Petitioner shall record in the land records of Baltimore County documentation which clearly sets forth the restrictions in this Order.

ANN:bjs
Deputy Zoning Commissioner
for Baltimore County

IN RE: PETITION FOR ZONING VARIANCE
E/S Vincent Avenue, 360' S of
Old Eastern Avenue
(9 Vincent Avenue)
15th Election District
5th Councilmanic District

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 89-346-A

Robert M. Gilroy - Petitioner

AMENDED ORDER

WHEREAS, the Petitioner requested a variance to permit an accessory structure (garage) height of 25 feet in lieu of the 20-foot height granted in Case No. 88-458-A and to permit said structure to be larger than the principal dwelling, in accordance with Petitioner's Exhibit 1;

WHEREAS, by Order dated March 13, 1989, the Deputy Zoning Commissioner denied the requested height variance but granted the request to permit the accessory structure to be larger than the principal dwelling;

WHEREAS, a request for reconsideration was filed on April 11, 1989 by Alfred L. Brennan, Jr., Esquire, attorney for Petitioner, which set forth the practical difficulty and hardship the Petitioner would suffer if a modified height variance were not granted;

IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 9th day of June, 1989 that the Order dated March 13, 1989 be and the same is hereby AMENDED to permit an accessory structure height of 22 feet, and

IT IS FURTHER ORDERED that all other conditions and restrictions of said Order shall remain in full force and effect.

ANN:bjs
cc: Mr. Robert M. Gilroy
People's Counsel; File
Alfred L. Brennan, Jr., Esquire

ANN:bjs
Deputy Zoning Commissioner
for Baltimore County

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 101.400.1 To allow an accessory structure height of 25 ft. in lieu of the 20 ft. height granted in Case No. 88-458-A and to allow the accessory structure to be larger than the principle dwelling.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

Twenty (20) Feet would not provide enough Room to Park A Truck And provide overhead Storage

Property is to be posted and advertised as prescribed by Zoning Regulations.

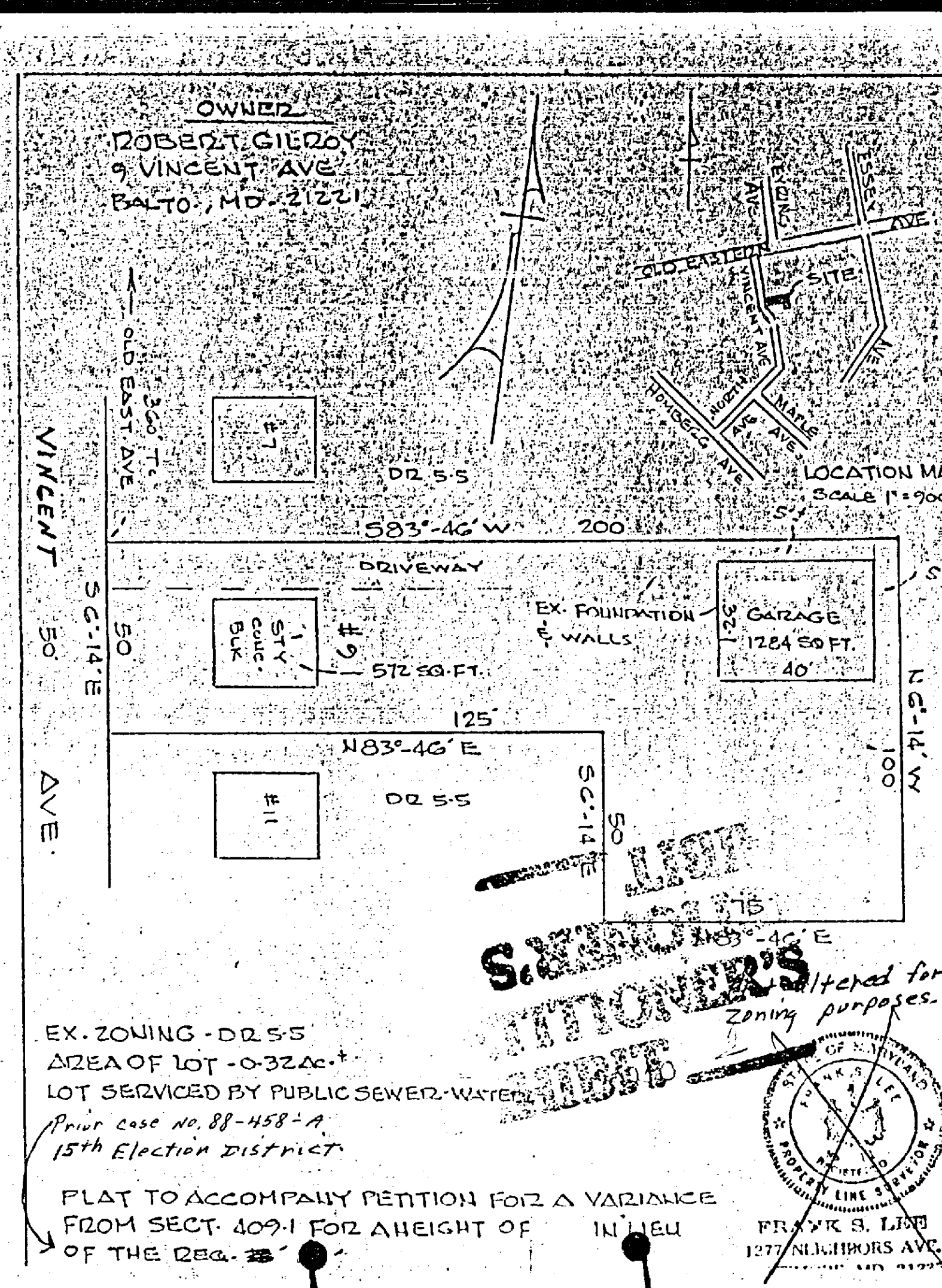
I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm under the penalties of perjury, that I/We are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:	Legal Owner(s):
(Type or Print Name)	(Type or Print Name)
Signature	Signature
Address	(Type or Print Name)
City and State	Signature
Attorney for Petitioner:	Address
(Type or Print Name)	City and State
Signature	Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Address	Address
City and State	City and State
Attorney's Telephone No.:	Name
	Address

ORDERED By The Zoning Commissioner of Baltimore County, this 9th day of June, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 21st day of June, 1989, at 2 o'clock P.M.

J. Robert Haisea
Zoning Commissioner of Baltimore County.



FRANK S. LEE

Registered Land Surveyor

1277 NEIGHBORS AVE. - BALTIMORE, MD. 21237

February 11, 1988

No. 9 Vincent Avenue
15th District Baltimore County, Maryland

Beginning for the same on the east side of Vincent Avenue at the distance of 360 feet measured southerly along the east side of Vincent Avenue from the south side of Old Eastern Avenue, thence running and binding on the east side of Vincent Avenue South 6 degrees 14 minutes East 50 feet, thence leaving Vincent Avenue for five lies of division as follows: North 83 degrees 46 minutes East 125 feet, South 6 degrees 14 minutes East 50 feet, North 83 degrees 46 minutes East 75 feet, North 6 degrees 14 minutes West 100 feet and South 83 degrees 46 minutes West 200 feet to the place of beginning.

Containing 0.32 acres of land more or less.

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333
J. Robert Haines
Zoning Commissioner

March 15, 1989

Mr. Robert M. Gilroy
9 Vincent Avenue
Baltimore, Maryland 21221

RE: PETITION FOR ZONING VARIANCE
E/S Vincent Avenue, 360' S of Old Eastern Avenue
(9 Vincent Avenue)
15th Election District - 5th Councilmanic District
Robert M. Gilroy - Petitioner
Case No. 89-346-A

Dear Mr. Gilroy:

It has been brought to my attention that the copy sent you of the Order issued in the above-captioned matter was not dated. Enclosed please find a dated copy of the decision rendered on March 13, 1989.

This information is being provided so that you know the date by which the appeal period begins to run. Please excuse the oversight.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

cc: People's Counsel

File

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333
J. Robert Haines
Zoning Commissioner

March 13, 1989

Mr. Robert M. Gilroy
9 Vincent Avenue
Baltimore, Maryland 21221

RE: PETITION FOR ZONING VARIANCE
E/S Vincent Avenue, 360' S of Old Eastern Avenue
(9 Vincent Avenue)
15th Election District - 5th Councilmanic District
Robert M. Gilroy - Petitioner
Case No. 89-346-A

Dear Mr. Gilroy:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The petition for zoning variance has been granted in part and denied in part in accordance with the attached order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

cc: People's Counsel

File

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333
J. Robert Haines
Zoning Commissioner

Date: 2/14/89

Mr. Robert M. Gilroy
9 Vincent Avenue
Baltimore, Maryland 21221

RE: Petition for Zoning Variance
CASE NUMBER: 89-346-A
E/S Vincent Avenue, 360' S of Old Eastern Avenue
9 Vincent Avenue
15th Election District - 5th Councilmanic District
Petitioner(s): Robert M. Gilroy
HEARING SCHEDULED: FRIDAY, FEBRUARY 24, 1989 at 2:00 p.m.

Dear Mr. Gilroy:

Please be advised that \$97.67 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 109, 111 W. Chesapeake Avenue, Towson, Maryland 21204, 15 minutes before

BALTIMORE COUNTY, MARYLAND		No.	008761
OFFICE OF FINANCE - REVENUE DIVISION			
MISCELLANEOUS CASH RECEIPT			
DATE	2/24/89	ACCOUNT	PC-116-000
		AMOUNT	\$ 97.67
RECEIVED FROM	Robert M. Gilroy		
FOR	P/A 2/24/89 89-346-A		
VALIDATION OR SIGNATURE OF CARRIER			

post set(s), there each set not

er of

BRENNAN AND BRENNAN
ATTORNEYS AT LAW, P.A.
825 EASTERN BOULEVARD
ESSEX, BALTIMORE, MD 21221

TELEPHONE
(301) 697-2434

April 11, 1989

Ann M. Nastarowicz
Deputy Zoning Commissioner
for Baltimore County
Room 109
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Case No. 89-346-A

Dear Ms. Nastarowicz:

Robert M. Gilroy has requested that I write to you in reference to the Findings of Fact and Conclusions of Law filed by you in March, 1989 in the above captioned case.

I had previously represented Mr. Gilroy in the first hearing, that is, 88-456-A and Mr. Gilroy chose to represent himself in the above case. Mr. Gilroy is in the process of building a garage in the back of his house and originally he thought he could build the garage with a twenty foot (20') maximum height. Half way through construction, he realized that he will need approximately twenty three and one-half feet (23 1/2') in order that he can use the upper portion of the garage.

At the present time, he has erected the walls around the garage to approximately ten feet three inches (10'3"). On the walls he has laid steel supports on which to place a floor to go above the garage. The first floor, with those trusses, will leave him with approximately eight and one-half feet (8 1/2') of head room on the first level. The base of the trusses are approximately ten feet three inches (10'3") from the floor and he intends to put joist and plywood down on top of the flooring, which would mean that the bottom of the floor would be ten feet six inches (10'6") above the garage floor.

Mr. Gilroy stands approximately six feet six inches (6'6") tall and requires a considerable amount of head room to move around. The second floor of his garage, assuming it had an eight foot (8') height, would bring the top of the

Ann M. Nastarowicz
April 11, 1989
Page 2

garage to eighteen and one-half feet (18 1/2'). In order to put a roof on top of this garage, the center of the roof would have to be raised approximately five and one-half (5 1/2') feet to allow for adequate water runoff. If you add all of the distant measurements together, the garage would have to be twenty three and one-half feet (23 1/2') so that he can stand up on the second floor as well as the first floor.

It is, therefore, requested that you amend your Findings of Fact and Conclusions of Law, filed with the Zoning Commission in March, 1989, so that Mr. Gilroy may have a zoning variance to permit an accessory structure garage height twenty three and one-half feet (23 1/2') in lieu of the twenty foot (20') height granted in case no. 88-456-A.

If there is any further information that you need, please do not hesitate to contact me.

Very truly yours,

ALFRED L. BRENNAN, JR.

ALB,JR/bj

cc: Mr. Robert Gilroy

442 Eastern Blvd.
Baltimore, Md. 21221
February 10, 1989

THIS IS TO CERTIFY, that the annexed advertisement of
Petition for Zoning Variance, petitioner
Robert M. Gilroy, 9 Vincent Avenue, 360' S of Old Eastern Avenue, 15th Election District-5th Councilmanic, Hearing scheduled: Friday, Feb. 24, 1989 at 2:00 p.m., was inserted in The Avenue News, a weekly newspaper published in Baltimore County, Maryland once a week for successive weeks) before the 10 day of February, 1989, that is to say, the same was inserted in the issues of Feb. 9, 1989.

The Avenue Inc.
per publisher
by David Blackwell

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 15th
Posted for: Variance
Petitioner: Robert M. Gilroy
Location of property: 9 Vincent Ave., 360' S of Old Eastern Ave.
Location of Sign: 9 Vincent Ave., 360' S of Old Eastern Ave.
Remarks:
Posted by: [Signature]
Number of Signs: 1

Date of Posting: 2/2/89
Date of return: 2/11/89

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333
J. Robert Haines
Zoning Commissioner

January 23, 1989

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 109 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance
CASE NUMBER: 89-346-A
E/S Vincent Avenue, 360' S of Old Eastern Avenue
9 Vincent Avenue
15th Election District - 5th Councilmanic
Petitioner(s): Robert M. Gilroy
HEARING SCHEDULED: FRIDAY, FEBRUARY 24, 1989 at 2:00 p.m.

Variance to allow an accessory structure height of 25 ft. in lieu of the 20 ft. height (granted in Case No. 88-456-A) and to allow the accessory structure to be larger than the principle dwelling.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: Mr. Robert M. Gilroy
File

CERTIFICATE OF PUBLICATION

TOWSON, MD., February 10, 1989

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on February 9, 1989.

THE JEFFERSONIAN,

Publisher

PO 09640
rg M25245
cc 89-346-A
price \$39.40

89-346-A

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this
28th day of December, 1989.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Petitioner: Robert M. Gilroy
Petitioner's Attorney: _____
Received by: James E. Dyer
Chairman, Zoning Plans Advisory Committee

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

February 8, 1989

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

MEMBERS
Bureau of Engineering
Department of Traffic Engineering
State Roads Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial Development

Mr. Robert M. Gilroy
9 Vincent Avenue
Baltimore, MD 21221

RE: Item No. 250, Case No. 89-346-A
Petitioner: Robert M. Gilroy
Petition for Zoning Variance

Dear Mr. Gilroy:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

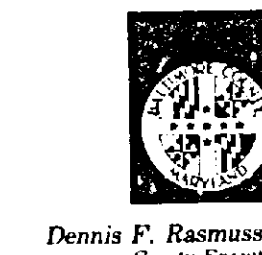
Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw
Enclosure

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
(301) 887-3351

January 17, 1989



Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for item numbers 137, 236, 248, 249, 250, 251, 254, 256, 257, and 258.

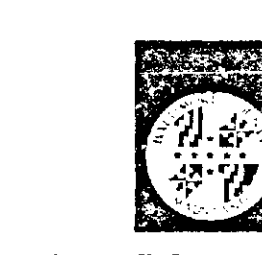
Michael S. Flanagan
Michael S. Flanagan
Traffic Engineer Associate II

MSF/LW

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4500

January 12, 1989

J. Robert Haines, Zoning Commissioner
Office of Planning & Zoning
Baltimore County Office Building
Towson, Maryland 21204



Re: Property Owner: Robert M. Gilroy

Location: 9 Vincent Avenue

Item No.: 250 Zoning Agenda: Meeting of 12/27/88

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

- () 1. Fire hydrants for the referenced property are required and shall be located at intervals or feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- () 2. A second means of vehicle access is required for the site.
- () 3. The vehicle dead end condition shown at _____ EXCEEDS the maximum allowed by the Fire Department.
- () 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
- () 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.
- () 6. Site plans are approved, as drawn.
- () 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *Pat Keller*
Planning Group
Special Inspection Division

NOTED & APPROVED: _____
Fire Prevention Bureau

/s/

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines, Zoning Commissioner Date: February 10, 1989
FROM: Pat Keller, Deputy Director, Office of Planning and Zoning
SUBJECT: Gilroy Zoning Petition No. 89-346-A

The petitioner is requesting a zoning variance to allow an accessory structure with a height of 25 feet in lieu of 20 feet and allow the accessory structure to be larger than the principal dwelling. In reference to this request, staff provides the following information:

- * The size of the accessory structure raises several areas of concern from a planning perspective and land-use impact that includes:
 - 1) is the structure out of proportion and character with the surrounding community;
 - 2) will there be a tendency to use the garage for uses that may not be compatible with the community;
 - 3) what type of truck will be parked within the garage;
 - 4) how large is the storage area and could it be converted to residential use in the future;
 - 5) will the structure have exterior lighting;
 - 6) have any provisions been made to landscape or fence the area?

In cases such as these more detailed plans providing building elevations, floor plans and details on any driveways and turn arounds need to be reviewed before a recommendation can be formulated.

PK/af

RECEIVED
FEB 13 1989
ZONING OFFICE

cc Robert M. Gilroy

